

REMARKS

Applicants appreciate the further confirmation of allowable subject matter, i.e. that claims 91-99, 101 and 102 are allowed.

The undersigned also thanks Primary Examiner Helms for his time and helpful comments during their discussion of the present application on July 1, 2004.

Claims 73-102 are pending in the instant application. Claims 73-90 have been canceled without prejudice. Claim 100 has been amended as suggested by the Examiner to expedite prosecution. Support for the amendment to claim 100 may be found in the specification and claims as originally filed. Claims 103-143 have been added. Claims 103-117 correspond to claims 73-79, 82, 85, and 88. Claims 121-137 correspond to claims 73-79, 81, 82, 85, and 88. Support for the newly presented claims may be found in the specification and the claims as originally filed. No new matter is presented by the claim amendment or the newly presented claims.

Claims 73-77, 79-82, 84, 85, and 90 were rejected under 35 U.S.C. § 102(b) over Buday, et al., *The Journal of Biological Chemistry* 269: 9019-9023, 1994 (Buday).

Claims 73-78, 80-83, 85, 86, and 88-89 were similarly rejected under 35 U.S.C. § 102(e) over Hirth, et al., U.S. Patent 5,058,959 (Hirth).

For the sake of brevity, these two Section 102 rejections are addressed in combination. Each of the rejections is traversed.

Applicants have cancelled claims 73-90 and presented corresponding claims as discussed above.

Applicants respectfully traverse these rejections as to the newly presented corresponding claims because the rejections rely on an interpretation of the claim term “specifically binds” which is contrary to the interpretation accorded by those of skill in the art as well as by the meaning ascribed in the present application and by Applicants’ arguments presented during the prosecution of the present application.

Thus, as recited in the newly presented claims, the term “specifically binds” means that the LAT-specific antibody does not cross-react with other non-LAT proteins, in accordance with the understanding by those of skill in the art and meaning ascribed in the present application and by Applicants’ arguments presented during the prosecution of the present application. Hence, the newly presented claims do not encompass the antibodies of either Buday or Hirth because the Buday and Hirth antibodies do not exclusively bind to nor are they specific for LAT.

Further, the newly presented claims call for antibodies that specifically bind to an amino acid sequence according to SEQ ID NO: 4. The antibodies of Buday and Hirth do not specifically bind to an amino acid sequence according to SEQ ID NO: 4, but rather they bind to **many proteins** having phosphotyrosine residues because they bind to or recognize only a phosphotyrosine residue and not an amino acid sequence that is unique to a LAT polypeptide. Many cellular proteins have phosphotyrosine residues and would be recognized and bound by the Buday and Hirth antibodies. One of skill in the art, therefore, would not recognize the Buday and Hirth antibodies as antibodies that would “specifically bind” to an amino acid sequence according to SEQ ID NO: 4. Thus, neither Buday nor Hirth teach each and every element of newly presented claims 103 through 142 therefore do not anticipate those claims.

Additionally, with respect to Applicants’ claims 103-122, the Buday and Hirth antibodies are not generated against a polypeptide comprising *at least about five non-phosphorylated amino*

acids of the amino acid sequence of SEQ ID NO:4 and which specifically binds to a LAT polypeptide comprising an amino acid sequence according to SEQ ID NO:4. This aspect of claims 103-122 is correctly given weight because the way in which the claimed antibodies are made does impact the structure and properties of the antibodies. There is no teaching or suggestion in Buday or Hirth of antibodies having such properties as recited in claims 103-122.

Similarly, with respect to Applicants' claims 123-142, the Buday and Hirth antibodies are not generated against a polypeptide comprising *at least about five amino acids of the amino acid sequence of SEQ ID NO:4* and which specifically binds to a LAT polypeptide comprising an amino acid sequence according to SEQ ID NO:4.

Still further, neither reference anticipates or renders obvious claims that recite that the antibodies do not bind to endothelial cells. Both the Buday and Hirth antibodies would bind to endothelial cells. Thus, neither Buday nor Hirth teaches each and every element of newly presented claims 110, 119, 131, or 139 and therefore cannot anticipate those claims.

Accordingly, the rejections are properly withdrawn. See, for instance, Section 2131 of the Manual of Patent Examining Procedure, which states in part:

A claim is anticipated only if and each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference.” *Verdegaal Brothers. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). ... The identical invention must be shown in as complete detail as is contained in the .. claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claims 81 and 83-90 are rejected under 35 U.S.C. § 112, second paragraph on grounds of indefiniteness. Claim 81 has been represented as claims 128 and 136 with some minor amendments to merely clarify the claims. Applicants believe the amendments address the Examiner's concerns; accordingly, withdrawal of the rejection is requested.

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Claims 85-87 and 100 were rejected under 35 U.S.C. § 112, first paragraph.

While Applicants fully disagree with and traverse the rejection, claim 100 has been amended herein and the subject matter of claims 85-87 presented in new claims as recommended in the Office Action. Withdrawal of the rejection is therefore requested.

It is believed the application is in conditions for immediate allowance, which action is earnestly solicited.

Respectfully submitted,



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